

Remarks

Claims 1-13 are pending in this application. Reconsideration and allowance of the application are respectfully requested.

The non-final Office Action dated March 29, 2007 indicated that claims 1, 5 and 6 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite; claims 1, 3, 4, 5, 7, and 9 stand rejected under 35 U.S.C. § 102(b) over Ihara (U.S. Patent 6,894,734); and claim 11 stands rejected under 35 U.S.C. 103(a) over Inoue et al. (U.S. Patent 6,127,199) in view of E Ink Corp (WO 02/073572).

Applicant has amended the title to be more descriptive, as suggested by the Office Action.

Applicant respectfully declines to add section headings to the specification because the indicated suggestions in 37 C.F.R. § 1.77(b) are not statutorily required for filing a non-provisional patent application under 35 USC § 111(a), but per 37 C.F.R. § 1.51(d) are only guidelines that are suggested for applicant's use. They are not mandatory, and when Rule 77 was amended in 1996 (61 FR 42790, Aug. 19, 1996), Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, stated in the Official Gazette:

“Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77.”

In view of the above, Applicant prefers not to add section headings.

With regard to the rejections under 35 U.S.C. § 112, second paragraph, Applicant respectfully traverses the rejections. With particular regard to the claimed limitations directed toward a functional layer, Applicant notes that the claimed functional layer is clearly supported in the specification. For example, various embodiments of the functional layer are discussed at paragraph 8 of Applicant's specification. This portion specifically discusses examples of the location, orientation, and materials of the claimed functional layer. Moreover, Applicant invites a review of the remainder of the Specification which

provides further discussion of the functional layer. For example, further discussion of the functional layer may be found at paragraphs 9-11 and 38, which also provide clear and definite support for the claimed functional layer. Accordingly, Applicant submits that the rejections cannot stand and respectfully requests that the rejections be withdrawn.

With regard to the claimed limitations directed toward a capacitor, Applicant notes that clear and definite support for such limitations are found in the specification. For instance, paragraphs 14-16 provide clear and definite support for the use of a capacitor with a pixel element. Paragraph 16 includes a detailed list of example materials suitable for such an application. Applicant submits that one skilled in the art would readily understand how a capacitor is formed using the listed material. Accordingly, Applicant submits that the rejections cannot stand and respectfully requests that the rejections be withdrawn.

With regard to the claimed limitations directed toward “the substrate,” Applicant submits that the scope of a claim would be reasonably ascertainable by those skilled in the art. Notwithstanding, Applicant has amended claim 6 accordingly. Applicant submits that the claimed limitations are clearly supported (*see, e.g.*, paragraph 16). Accordingly, Applicant submits that the rejections cannot stand and respectfully requests that the rejections be withdrawn.

With regard to the rejections under 35 U.S.C. § 102(b), Applicant respectfully traverses the rejections for failing to correspond to each of the claimed limitations. The Office Action has misinterpreted the claimed limitations directed toward a flexible device. When interpreting claims, the Examiner must interpret the claims in view of the specification and the interpretation must be consistent with an interpretation one skilled in the art would reach. *See, e.g.*, M.P.E.P. § 2111. Applicant submits that one skilled in the art would not view the device of the Ihara reference as a flexible device. The device of the Ihara reference is instead taught to include an inflexible glass substrate 101. *See, e.g.*, Ihara Col. 10, lines 44-48. More specifically, one of skill in the art viewing Applicant’s specification would recognize that the term flexible denotes more than minimal flexibility having insubstantial functionality. Moreover, the specification clearly identifies examples of flexible devices including, for example, rollable devices. *See, e.g.*, Applicant’s Specification at paragraphs 9-12 and 38. Thus, Applicant respectfully submits that the

Office Action's interpretation does not fully appreciate express teachings in Applicant's specification and the proper interpretation of a person of ordinary skill in the art.

Accordingly, the rejections are improper because the Ihara reference fails to teach each aspect of the claimed invention.

Notwithstanding and in an effort to facilitate prosecution, Applicant has amended claim 1 to require that the first electrode and the functional layer be electrically connected. Applicant submits that this aspect should have been implicitly understood and that the amendment is fully supported by the specification. Applicant submits that the cited portion of the Ihara reference does not provide the claimed electrical connection. For at least the aforementioned reasons, Applicant respectfully requests that the rejections be withdrawn.

With regard to the rejection under 35 U.S.C. § 103(a), Applicant respectfully traverses the rejection for failing to present a *prima facie* case of obviousness. The Office Action merely asserts that the Inoue reference discloses the claimed invention without any explanation or support thereof. Applicant notes that the Inoue reference includes over 40 figures and descriptions thereto, as well as numerous embodiments. The Office Action must address the claimed invention as a whole and may not distill the invention down to a perceived/alleged "gist" of the invention. *See* M.P.E.P. § 2141.02. In this instance, the Office Action has not provided even a cursory showing of correspondence between the claimed limitations and the cited Inoue reference. Applicant submits that the basis for the asserted correspondence between the Inoue reference and the claimed invention is not readily apparent and as such, Applicant has not been afforded an opportunity to reply. *See* M.P.E.P. § 706.02(j). Moreover, Applicant is unable to judge the proprietary of the asserted combination as it is unclear what the Office Action is asserting the combination includes. Accordingly, the rejection is improper and Applicant respectfully requests that the rejections be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the attorney overseeing the application file, Adam Stroud, of Philips Corporation at (408) 904-3618.

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